MINUTES OF THE COURT OF APPEAL STATE OF CALIFORNIA SECOND APPELLATE DISTRICT

November 30, 1999

DIVISION ONE

B121293 Antelope Valley Newspapers, Inc. (Not for Publication)

v.

Desert Mailer News

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.

Vogel (Miriam A.), J.

B126476 The People (Not for Publication)

V.

Lowe

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Masterson, J.

B127428 Figueroa (Not for Publication)

v.

Hearron et al.

The order is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Masterson, J.

DIVISION ONE (Continued)

B129992 People (Not for Publication)

v.

Bernardez

The judgment is modified by striking the Penal Code section 12022, subdivision (b)(1), enhancement. As so modified, the judgment is affirmed. The clerk of the trial court is directed to prepare a modified abstract of judgment and forward a copy to the Department of Corrections.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Masterson, J.

B117787 Osemeka (Not for Publication)

v.

Centinela Hospital Association d.b.a. Centinela Hospital Medical Center, etc.

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J. Masterson, J.

B131286 Struthers (Not for Publication)

V.

Paul, Hastings, Janofsky & Walker, LLP, et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Masterson, J.

DIVISION ONE (Continued)

B126058 Allison (Not for Publication)

V.

City of El Segundo et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Masterson, J.

DIVISION TWO

B131666 People (Not for Publication)

v. Sosa

The Court:

The order under review is reversed and the information charging respondent with murder is reinstated.

Boren, P.J., Nott, J., Mallano, J. (Assigned)

B126164 Tong (Not for Publication)

V.

Grover et al.

The judgment dismissing plaintiff's action is affirmed.

Mallano, J. (Assigned)

We concur: Nott, Acting P.J.

Zebrowski, J.

DIVISION TWO	(Continued)
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B132936 People (Not for Publication)

v.

Joe W.

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Mallano, J. (Assigned)

B128017 People (Not for Publication)

v.

Wade

The Court:

The judgment is modified to reflect 362 days of actual credit, 180 days of conduct credit and a total of 542 days of presentence credit. In all other respects, the judgment is affirmed.

Boren, P.J., Nott, J., Mallano, J. (Assigned)

B128699 Sheriff's Department of the (Not for Publication)

County of Los Angeles

v

Civil Service Commission of the County of L.A.

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Boren, P.J.

Nott, J.

DIVISION TWO (Continued)

B126953 People (Not for Publication)

v. Ellis

The Court:

The matter is remanded for resentencing in accordance with the views expressed herein. In all other respects, the judgment is affirmed.

Nott, Acting P.J., Cooper, J., Mallano, J. (Assigned)

B134100 Dolores H. (Not for Publication)

V.

Superior Court, Los Angeles County

The petition for writ of mandate is denied, and the order to show cause is dismissed.

Boren, P.J.

We concur: Nott, J.

Mallano, J. (Assigned)

B132100 David P. (Not for Publication)

V.

Superior Court, Los Angeles County

The petition for writ of mandate is granted. The juvenile court is directed to set aside its order setting a section 366.26 hearing, and issue a new and different order granting petitioner's request for a continuance until such time as the ICPC can be completed on Debra T. The order to show cause is dismissed.

Boren, P.J.

I concur: Nott, J.

I dissent: Mallano, J. (Assigned)

DIVISION TWO (Continued)

B134997 Zenobia H. (Not for Publication)

v.

Superior Court, Los Angeles County

The petition for writ of mandate is denied, and the order to show cause is dismissed.

Mallano, J. (Assigned)

We concur: Boren, P.J. Nott. J.

DIVISION THREE

B118590 People (Not for Publication)

v.

Jose Sabino Chavez

The judgment is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.

Kitching, J.

B123450 People (Not for Publication)

v.

Alex Steve Casillas

The abstract of judgment shall be modified to reflect the \$1,000 restitution fine imposed by the court and to impose a mandatory suspended parole revocation fine in the same amount. In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.

Croskey, J.

DIVISION THREE (Continued)

B127219 April S. Ray (Not for Publication)

V.

The County of Los Angeles

The judgment is affirmed. Respondent(s) to recover costs.

Kitching, Acting P.J.

We concur: Aldrich, J.

Schneider, J. (Assigned)

B126107 Caryl O. Crahan (Not for Publication)

V.

Huntington Memorial Hospital

The judgment is affirmed.

Kitching, Acting P.J.

We concur: Aldrich, J.

Schneider, J. (Assigned)

B124175 Susan Woodley (Not for Publication)

v.

Albert M. Cerio et al.

Linda Stewart

The judgment is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.

Aldrich, J.

DIVISION THREE (Continued)

B122580 Gary A. Bandy et al. (Not for Publication)

v.

David J. Augustine et al.

The judgment is affirmed. Respondent(s) to recover costs.

Kitching, J.

We concur: Croskey, Acting P.J.

Aldrich, J.

B126011/ Carrara Marble Co. of America, Inc. (Not for Publication)

B128531 v.

V.

Charles Pankow Builders, Ltd., et al.

In the appeal by Carrara Marble Company of America, the judgment is reversed and the matter is remanded to the trial court to correct the arbitration awarded by providing for an award of attorney fees to Carrara. The trial court is directed to determine the amount of those fees reasonably incurred by Carrara Marble Company of America in its action against Federal Insurance. The trial court should also award attorney fees which Carrara Marble Company of America. In the appeal by Federal Insurance Co., the order denying attorney fees is affirmed. Costs on appeal are awarded to Carrara Marble Company of America.

Kitching, J.

We concur: Croskey, Acting P.J.

Aldrich, J.

DIVISION THREE (Continued)

B121155 People (Certified for Partial Publication)

v.

Ivan T.

The judgment is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.

Aldrich, J.

B128496 Los Angeles County, D.C.F.S. (Not for Publication)

v.

Herman H.

The judgment is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.

Kitching, J.

DIVISION FOUR

B123190 People (Certified for Partial Publication)

V.

Avanessian, et al.

The judgments are affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.

Dau, J. (Assigned)

DIVISION FOUR (Continued)

B130484 People (Not for Publication)

v. Simon

The judgment is reversed. The trial court is directed to enter a judgment of acquittal.

Vogel (C.S.), P.J.

We concur: Epstein, J. Curry, J.

B128485 People (Not for Publication)

v.

Dante R.

For the foregoing reasons, the judgment is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.

Curry, J.

B114736 People (Not for Publication)

v.

Johnson

The judgment is modified to include an additional restitution fine of \$200 which shall remain suspended unless and until defendant violates parole, pursuant to Penal Code section 1202.45. As so modified, the judgment is affirmed. The clerk of the superior court is directed to prepare and send to the Department of Corrections a corrected abstract of judgment.

Vogel (C.S.), P.J.

We concur: Hastings, J.

Curry, J.

DIVISION FOUR (Continued)

B127685 People

(Not for Publication)

V.

Fikes

The judgment is modified to provide that execution of eight months of the sentence is stayed, pursuant to former section 1170.1, subdivision (a) and rule 447, California Rules of Court, the stay to become permanent upon service of the portion of the sentence not stayed. As so modified, the judgment is affirmed. The trial court is directed to send a corrected abstract of judgment to the Department of Corrections.

Vogel (C.S.), P.J.

We concur: Hastings, J.

Curry, J.

B109247 People

(Not for Publication)

v.

Scherrer

For the foregoing reasons, the order directing the payment of restitution to the victim's family through the parole officer is stricken. As modified, the judgment is affirmed. The trial court is directed to prepare an Amended Abstract of Judgment reflecting the modified sentence and to forward it to the Director of Corrections.

Vogel (C.S.), P.J.

We concur: Epstein, J.

Hastings, J.

DIVISION FOUR (Continued)

B131538 Golant

(Not for Publication)

v.

Levy

The grant of summary judgment and the order denying relief from the judgment are affirmed. Respondent to have his costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.

Dau, J. (Assigned)

B133053 Gil Garcetti et al.

(Certified for Publication)

v.

Superior Court, Los Angeles County

(Leonard Pierre, r.p.i.)

The respondent court is directed to vacate its decision and order granting the motion of real party in interest to dismiss the petition for commitment filed by the District Attorney, and to enter a new and different order denying that motion, and to proceed with the petition according to law.

Epstein, Acting P.J.

We concur: Hastings, J.

Curry, J.

DIVISION FOUR (Continued)

B128272 Orellana (Not for Publication)

v.

S.C.L.A. The People

The Court:

Let a peremptory writ of mandate issue directing the Clerk of the Los Angeles Superior Court to consider a timely notice of appeal to have been filed on behalf of defendant Jose Orellana in case No. SA030310 and to process the notice of appeal accordingly.

Vogel (C.S.), P.J., Epstein, J., Curry, J.

DIVISION FIVE

Court convened at 9:05 A.M.

Present: Turner, P.J., Grignon, J., Armstrong, J. and J. Belcher, Deputy Clerk.

Each of the following:

B123480 People v. Robinson

B123519 People v Thompson

B123817 People v Flynn

B124348 People v. Hamm

B124385 People v. Duffie

B127750 People v. Ewing

B132925 D.C.F.S. v. Lichelle T.

B133226 D.C.F.S. v. Laura F.

B131407 People v. David M.

B135030 D.C.F.S. v. Marian C.

Argument waived, cause submitted.

DIVISION FIVE (Continued)

B128667 People

v.

Gregory Taylor

Merits:

Argued by Otis L. Hubbard, deputy district attorney, for appellant and by John Hamilton Scott, deputy public defender, for respondent.

Cause submitted.

B130349 Brenda Williams

B132804 v.

Richard Williams

Merits:

Argued by Daniel L. Germain for appellant and by Roberta

Murawski for respondent. Cause submitted.

B125396 Novella Kemp

V.

National Pacific Mortgage Corporation et al.

Merits:

Argued by Mark I. Rosenberg for appellant and by Catherine L.

Rivard for respondents. Cause submitted.

B129790 Tamas Kerekes

V.

Public Administrator of Los Angeles County

Estate of Peter Kerekes

Merits:

Argued by John S. Hilbert for appellant and by Paul I. Yoshinaga,

deputy county counsel, for respondent. Cause submitted.

DIVISION FIVE (Continued)

B119128 Carl M. Kinsey

V.

Lou Dantzler et al.

Merits:

Argued by Carol Boyk for appellant and by Kevin B. Carter and Jodi Feuerhelm for respondents. Cause submitted.

Each of the following:

B130486 People v. Fuggins

B133650 D.C.F.S. v. Mona C.

B129712 People v. Gregory Villegas

B128896 People v. Secondino

B131528 People v. Smith

B131515 People v. Guyton

Argument waived, cause submitted.

Court recessed at 10:50 a.m.

Court reconvened at 1:00 P.M.

Present: Turner, P.J., Armstrong, J., Godoy Perez, J. and J. Belcher, Deputy Clerk.

B132442 Saxton v. Galvan

Argument waived, cause submitted.

B127015 Kevin Garvey

v.

Commission on Teacher Credentialing

Appearances:

Jennifer S. Cady for appellant and by David J. Penner for respondent. Argument waived, cause submitted.

DIVISION FIVE (Continued)

B085960 Cates Construction

V.

TIG Insurance Co., et al. Talbot Partners et al.

Merits:

Argued by Barry R. Levy for appellants and by Bernard E. Lesage for respondents. Cause submitted.

B121141 Sherri Hopgood

V.

Saperstein & Seligman et al.

Merits:

Argued by Dale K. Galipo for appellant and cross-respondent and by Janine S. Simerly for respondent and cross-appellant. Cause submitted.

B124482 Foxgate Homeowners' Association, Inc.

v.

Bramalea California Inc., et al.

Merits:

Argued by Ivan K. Stevenson for appellants and by James T. Perez for respondent. Cause submitted.

Court adjourned at 2:25 P.M.

DIVISION SIX

B133110 Electro Optical Industries, Inc. (Certified for Publication)

v.

White

The order denying EOI's application for preliminary injunction is

affirmed. Costs to White.

Yegan, J.

We concur: Gilbert, P.J.

Coffee, J.

B130927 People (Not for Publication)

v.

Escamilla

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.

Coffee, J.

B130777 People (Certified for Publication)

v.

Toney

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.

Yegan, J.

DIVISION SIX	(Continued)
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B130519 People (Not for Publication)

v.

Munoz

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.

Coffee, J.

B128736 Conner (Certified for Publication)

v.

Conner

The judgment is affirmed. Billie is awarded costs on appeal. In addition, Billie is awarded reasonable attorney's fees on appeal in an amount to be determined on noticed motion filed in the superior court.

Yegan, J.

We concur: Gilbert, P.J.

Coffee, J.

B122541 Cunningham et al. (Not for Publication)

v.

Durand et al.

The judgment is affirmed. Respondents are awarded their costs.

Coffee, J.

We concur: Gilbert, P.J.

Yegan, J.

DIVISION SIX (Continued)

B128743 Hamby (Not for Publication)

v.

Hamby

The judgment (order) is affirmed. Costs are awarded to respondent.

Gilbert, P.J.

We concur: Yegan, J.

Coffee, J.

B134001 People (Not for Publication)

v.

Bommel

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.

Coffee, J.

DIVISION SEVEN

B111547 People v. Everett (Not for Publication)

B127651 In re Kelvin L. Everett on Habeas Corpus

> The convictions and sentence on counts III, V, VI, X, XI, XII, XIII, and XIV are vacated and remanded for further proceedings in accordance with the views expressed herein. In all other respects the

judgment is affirmed. The petition is denied.

Woods, J.

We concur: Lillie, P.J.

Johnson, J.

DIVISION SEVEN (Continued)

B129717 People (Not for Publication)

v.

Talamantez

The judgment is affirmed. The superior court shall also have its clerk prepare an amended abstract of judgment stating a restitution fine under Penal Code section 1202.4 was imposed in this case and send the amended abstract of judgment to the California Department of Corrections.

Woods, J.

We concur: Lillie, P.J.

Johnson, J.

B123263 Esquerra (Not for Publication)

v.

Pacific Ford, Inc., et al.

The order denying the motion to compel arbitration is reversed, and the cause remanded to the trial court to enter a new, different order compelling arbitration. Appellants shall recover their costs on appeal.

Neal, J.

I concur: Woods, J.

I dissent: Lillie, P.J. (Opinion)

B119252 Rayburn

v.

Aazami

B121392 Rayurn

v.

Aazami

Filed order consolidating above captioned appeals.

DIVISION SEVEN (Continued)

B127651 Ramirez (Not for Publication)

V.

Workers Compensation Appeals Board National Union Fire Ins. Co., et al.

The decision of the Workers Compensation Appeals Board is reversed, and the decision of the workers' compensation judge reinstated. Petitioner shall recover his costs.

Neal, J.

We concur: Johnson, Acting P.J.

Woods, J.